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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/248,465	02/11/1999	JOHN C. ANDERSON	TESTP0101US	8795

7590 07/29/2002

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EXAMINER

LE, DEBBIE M

ART UNIT

PAPER NUMBER

2177

#11

DATE MAILED: 07/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/248,465	STACK ET AL.	
	Examiner	Art Unit	
	DEBBIE M LE	2177	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 01 July 2002.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-10,12-13,15-21 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 15 is/are allowed.

6) Claim(s) 1-10,13 and 16-21 is/are rejected.

7) Claim(s) 12 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Response to Amendment

Applicants' argument filed 7/1/02 (paper #10).

Applicant's arguments with respect to claims 1-10, 12-13, 15-21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-10, 12-13, 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sonnenfeld (US Patent 6,112,049) in view of Walker et al (US Patent (5,862,223)).

As per claim 1, Sonnenfeld discloses a system for generating a test comprising:
providing a host system and a plurality of remote terminals operatively coupled to the internet (col. 1, lines 5-9, col. 3, lines 12-45);
inputting questions at one of the remote terminals; compiling the questions at the host system to make a compiled test (col. 12, lines 56-65).

Sonnenfeld does not explicitly teach a test-taker is required to pay to take the compile test. However, Walker discloses a test-taker is required to pay to take the test (col. 28, lines 20-26, col. 29, lines 15-67, col. 30, lines 1-44, col. 6, lines 34-41, col. 9, lines 19-38). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the process of charging a fee for accessing information provide over internet because it would meet the user's need for access in way that is secure but fast (col. 4, lines 26-51).

As per claim 2, Sonnenfeld teaches the steps of providing a home page that is accessible to both potential test-makers and test-takers and that allows users to cast themselves as either a test-maker or a test-taker (col. 13-14, lines 65-10, col. 16, lines 25-35).

As per claim 3, Sonnenfeld teaches wherein the test-maker is required to input an identifier (col. 17-18, lines 1-3).

As per claim 4, Sonnenfeld teaches the step of editing a compiled test (col. 8, lines 13-27, col. 18, lines 58-61).

As per claim 5, Sonnenfeld teaches wherein the step of posting the step includes placing the compiled test in a directory for access by potential test-takers (col. 13, lines 37-42, col. 15-16, lines 4-7, col. 66, lines 54-63).

As per claim 6, Sonnenfeld teaches wherein the directory has a plurality of categories corresponding to different types of tests and wherein the compiled test is placed in the appropriate category (col. 6, lines 2-3, 57-58, col. 9, lines 17).

As per claim 7, Sonnenfeld teaches wherein the step of placing the compiled test in a directory includes the steps of placing a just-made test into a temporary category, reviewing the test to determine the appropriate category, and then placing the test into the appropriate category (col. 18, lines 24-26).

As per claim 8, Sonnenfeld teaches the step of receiving input from the test-maker as to the appropriate category (col. 13, lines 30-56).

As per claim 9, Sonnenfeld teaches wherein the test-taker chooses a test from the directory (col. 14, lines 31-46).

As per claim 10, Sonnenfeld teaches wherein the test-taker is allowed to preview the test chosen from the directory (col. 16, lines 36-66).

As per claim 13, Sonnenfeld teaches wherein the compiled test is placed in a restricted directory and the test-taker must have know a password to access the compiled test (col. 14, lines 57-67, col. 15, lines 33-50, col. 20-21, lines 31-5).

As per claims 16-17, Sonnenfeld teaches:

providing a host system and a plurality of remote terminals operatively coupled to the Internet (col. 1, lines 5-9, col. 3, lines 12-45);

placing a test in a restricted directory for potential test-takers (col. 12, lines 56-65);

requiring a test-taker to input a password to have access to the restricted directory (col. 7, lines 15-23).

Sonnenfeld does not explicitly wherein the charge for the restricted directory is based on per time a test is taken, per time a user visits the directory. However, Walker teaches the charge for the restricted directory is based on per time a test is taken, per time a user visits the directory (col. 27, lines 45-65). Thus, it would have been obvious to one of ordinary skills in the art at the time the invention was made to combine the teachings of Sonnenfeld with Walker to provide a student with efficient to access the information on the internet wherever, whenever they wish.

As per claim 18, Sonnenfeld teaches:

a first computer operatively coupled to the Internet, the first computer including software means for generating the test and software means for posting the test on the Internet (col. 1, lines 5-9, col. 3, lines 12-45, col. 12, lines 56-65); and

a second computer operatively coupled to the Internet, the second computer operative to allow a user to take the test and receive test results (col. 5-6, lines 48-25).

Sonnenfeld does not explicitly teach a test-taker is required to pay to take the compile test. However, However, Walker discloses a test-taker is required to pay to

take the test (col. 28, lines 20-26, col. 29, lines 15-67, col. 30, lines 1-44, col. 6, lines 34-41, col. 9, lines 19-38). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the process of charging a fee for accessing information provide over internet because it would meet the user's need for access in way that is secure but fast (col. 4, lines 26-51).

Claim 19 and 20 are rejected by the same rationale as stated in independent claim 1 argument.

As per claim 21, Walker teaches wherein the host system include a procedure for opening an account for a test-taker (col. 22, lines 1-67, col. 23, lines 1-23).

Allowable Subject Matter

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Because the prior art of record fails to teach or fairly suggest that wherein the test-maker and the proprietor of the host system share the revenues generated by the test-taker taking the test.

The following is an examiner's statement of reasons for allowance:

Claim 15 is allowable over the prior art of record because the prior art of record Because the prior art of record fails to teach or fairly suggest that wherein the restricted directory includes academic practice tests and wherein a school enrolls students at a set cost per school year.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

If a reference indicated as being mailed on PTO-FORM 892 has not been enclosed in this action, please contact Lisa Craney whose phone number is (703) 305-9601 for faster service.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DEBBIE M LE whose telephone number is 703-308-6409. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN BREENE can be reached on 703-305-9790. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-7960.



DEBBIE M LE
Examiner
Art Unit 2177

Debbie Le
July 23, 2002



JOHN BREENE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100